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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement* submitted by Earthjustice Legal Defence Fund, a non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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SPRAYING TOXIC HERBICIDES ON RURAL COLOMBIAN AND ECUADORIAN COMMUNITIES

1. In the fall of 2000, the United States and Colombia began an intensive aerial herbicide application program to eradicate coca and poppy crops in drug-producing areas of Colombia as part of a greater anti-narcotics initiative called Plan Colombia. To date, the program is violating human rights of Colombian and Ecuadorian peasants and indigenous peoples living in the affected regions. The spray mixture and the manner in which it is applied have resulted in numerous health problems for residents, destruction of their food resources, contamination of their surface water, damage to surrounding wilderness areas, and tremendous deforestation resulting from relocation of spray victims and their farms that is beyond levels that the United States and Colombia claim results from coca and poppy production. Despite these harms, the United States and Colombia have provided only limited information about the program and have not conducted adequate health and environmental assessments. Consequently, these governments are depriving these individuals of their rights to a clean and healthy environment, health, life, sustenance, property, inviolability of the home and family, and access to information. Earthjustice requests that the UN Commission on Human Rights urge the United States and Colombia to halt immediately the aerial herbicide application program unless the program can be conducted without causing these harms and to encourage these governments to pursue alternative eradication methods. Earthjustice is pleased to provide the sources that support the claims made in this statement.

2. Reports to date indicate that the aerial herbicide application program has resulted in serious human rights abuses. Health harms from the spraying include gastrointestinal disorders (*e.g.* severe bleeding, nausea, and vomiting), testicular inflammation, high fevers, dizziness, respiratory ailments, skin rashes, and severe eye irritation. The spraying may also have caused birth defects and miscarriages. Moreover, the spraying has destroyed more than 1,500 hectares of legal food crops (*e.g.* yucca, corn, plantains, tomatoes, sugar cane, grass for livestock grazing) and fruit trees and has resulted in the death of livestock (*e.g.* cows, chickens). Regarding environmental harms, the spraying has parched wilderness areas and caused deforestation and loss of critical habitat to endangered bird species because spray victims relocate to farm their legal crops. Other environmental harms include contamination of surface waters and death of fish. In sum, the situation provides a clear example of the link between the environment and human rights—severe damage to the air, water, land and biodiversity caused by the spraying is violating various human rights.

3. The grave nature of these harms makes it essential that affected communities have complete information concerning what is being sprayed and how it is being sprayed so that they can determine how the program is harming their health, livelihood and environment and how they can avoid further injury. However, the United States and Colombia have yet to provide sufficient details about each of the components in the herbicide mixture and the precise manner in which it is applied. Earthjustice on behalf of Amazon Alliance requested such information in August 2001 from US agencies involved in the program but none have disclosed any to date.

4. Nevertheless, the limited information that the governments have provided suggests that the mixture being sprayed is toxic and is being applied inappropriately. According to a January 2001 report from the Bureau of International Narcotics and Law Enforcement Affairs at the US Department of State ("INL") to the US Congress, the herbicide mixture is composed of a US-approved product that contains glyphosate, water, and surfactants — the combination of which, according to Colombian and US sources, is an herbicide called Roundup-Ultra that the Monsanto

Company produces — as well as two additional substances manufactured in Colombia (COSMO FLUX-411f and COSMO-IN-D).

5. Other reports indicate that the mixture likely contains herbicide concentrations that are more than five times greater than levels for aerial application recognized as safe by the US Environmental Protection Agency ("EPA"). In the United States, such application, which surpasses the limitations on the EPA-approved label for Roundup-Ultra, would violate federal law. The United States and Colombia continue to assert that there are no human health risks associated with the program; yet, scientific studies that the United States and Colombia cite to demonstrate the safety of the eradication program all rest on the fact that the herbicide used is considered to be safe if label instructions are followed.

6. Moreover, the two additional substances (surfactants) that are added to increase adhesion and penetration of the herbicide into the plant leaf are more toxic than the active ingredient in the herbicide (*i.e.* glyphosate) that kills the plants. The United States and Colombia have attempted to conceal this point by focusing their limited public information on assertions that glyphosate is harmless.

7. Apart from these toxicity concerns are indications that application methods used contradict the manufacturer's recommendations and exacerbate human and environmental harms. For example, the Roundup-Ultra manufacturer recommends that aerial application not occur more than 10 feet above the top of the largest plants unless a greater height is required for aircraft safety. However, according to the Colombian antinarcotics police, the aerial herbicide application program flies aircraft 10-15 meters (approximately 25-30 feet) above the tops of the largest plants. This difference in altitude would be expected to greatly increase drift of the mixture to non-target areas and communities such as those in Ecuador.

8. Furthermore, neither government has conducted a satisfactory assessment of the potential human health and environmental impacts of the entire mixture used to spray coca plants despite monitoring requests from the UN Office for Drug Control and Crime Prevention. The only environmental assessment that the United States has conducted and made public involved providing EPA with the manufacturers' lists of ingredients of COSMO FLUX-411f and COSMO-IN-D and having EPA merely compare these substances to a list of approved food residues in the United States. EPA was not provided with and did not consider concentrations in the spray mixture as a whole, the amounts and concentrations to be applied, or the conditions for use. Based on this entirely inadequate assessment, INL nevertheless reported to the US Congress that the spray mixture and the manner in which it is sprayed are safe for the environment and human health. Since July 2001 and without success, Earthjustice has attempted to obtain from several US agencies, including INL and EPA, a more detailed environmental impact statement that INL reportedly prepared and made available at the Patricks Air Force Base in Florida to private military contractors. Unless the United States discloses this environmental impact statement and it is deemed sufficient, further environmental assessments are needed.

9. In the only health assessment that the United States has commissioned and made public, the Clinica Uribe Cualla S.A. of Colombia reviewed 21 out of 29 available written medical complaints made by Colombians in the community of Aponte, a part of the El Tablon Municipality in the Narino Department. However, Aponte residents made those complaints around the time of two poppy sprayings, not the more prevalent coca spraying. The mixture used to spray coca plants is nine times more concentrated than the mixture used to spray poppy plants. Given that difference

and the more widespread application of the coca spray mixture, assessments of coca spraying victims are needed.

10. Perhaps realizing this need, the INL, with the help of EPA and the US Center for Disease Control, is designing a new health study. However, that study raises additional human rights concerns because in its current form it would assess the health of 100 farmers in the Putumayo Department of Colombia before spraying begins and then reexamine those same 100 people after fumigation of nearby coca crops occurs. If the testing is conducted without obtaining the farmers' consent, the study would clearly violate their human rights. In fact, such nonconsensual testing would raise serious questions under current US law. Nevertheless, INL is moving forward.

11. To recap, the combination of (1) health, food resource, and environmental impacts to Colombians and Ecuadorians, (2) the toxicity of the spray mixture and the failure of the United States and Colombia to instruct sprayers to observe health and environmental safety recommendations, (3) the failure of the United States and Colombia to disclose sufficient information about the mixture and its application, (4) the failure of the United States and Colombia to conduct sufficient health and environmental assessments, and (5) the potential human rights abuses that may result from future health studies, clearly places the United States and Colombia in violation of the rights of Colombians and Ecuadorians to a clean and healthy environment, health, life, sustenance, property, privacy, and access to information. Consequently, the UN Commission should urge the United States and Colombia to discontinue the aerial herbicide application program and seek alternative eradication methods.